

Remarks

Applicant has addressed each issue in turn and, for clarity, has provided a heading for each issue.

35 U.S.C. § 102

Claims 4 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 4,528,705 (“Greenawalt”). Applicant has amended claims 4 and 7 to recite the additional element of a padding layer, as supported by the specification. For example, see Figure 2H, reference no. 70 and Figure 3C, reference no. 91. In addition, the specification has been amended to include further description of a padding layer as incorporated by reference to United States Patent No. 6,026,527. This does not introduce new matter as the ‘527 patent was incorporated by reference in the original Application. Applicant believes the amendment to claims 4 and 7 render the § 102(b) rejection moot because the Greenawalt reference does not disclose the combination of a bladder, resilient material and a padding layer. In fact, Greenawalt has no disclosure whatsoever regarding a padding layer. In addition, Applicant has amended claim 7 and dependent claim 10 to recite a “resilient material” instead of a “resilient material covering” to clarify that the claimed invention is comprised of three layers: (1) a bladder, (2) a resilient material and (3) a padding layer.

35 U.S.C. § 103

Claims 1 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 4,528,705 (“Greenawalt”) in view of United States Patent No. 6,182,312 (“Walpin”). Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenawalt in view of Walpin, and further in view of United States Patent No. 4,501,034 (the “’034 patent”). Claims 3 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over

Greenawalt in view of Walpin, and further in view of United States Patent No. 5,372,487 ("Pekar"). Claims 5 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenawalt in view of the '034 patent. Claims 6 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenawalt in view of Pekar.

Applicant has amended independent claims 1, 4 and 7 (from which the remaining claims 2-3, 5-6 and 8-11 depend) to recite a padding layer formed as illustrated by way of example in Figures 2H and 3C of the Application. The claimed padding layer has a cushioning element that includes a quantity of gel cushioning media formed into the shape of a plurality of hollow columns with walls, such that when a sufficient force is exerted on the cushioning element at least one of the column walls is capable of buckling. The hollow buckling columns of the padding layer are made of soft elastomeric gel that provides support and conformity of the pillow to the fine features of the face and head by buckling where there is a point load, and resisting buckling where a broad area of the face or head spans many columns. In addition and as mentioned above, the specification has been amended to include further description of a padding layer as incorporated by reference to United States Patent No. 6,026,527 in the Application as filed. None of the references cited by the Examiner (as listed above) disclose a padding layer formed of buckling column elastomers, or the combination of a bladder, a resilient material and a padding layer. Applicant believes that the amendments to claims 1, 4 and 7 render the § 103(a) rejection of claims 1-3, 5-6 and 8-11 moot.

In addition, Applicant submits that there are secondary considerations rebutting any prima facie case of obviousness. Applicant has attached a Declaration of Tony M. Pearce, inventor on this Application, illustrating commercial success of the invention. The invention as defined by the claims in the Application has been licensed to Sleep Innovations, Inc., Pacific

Wave Co. Ltd., and Advanced Comfort Technology, Inc. by EdiZONE, LC resulting in revenues and other consideration paid to EdiZONE, LC at least in the amount of \$650,000. Copies of the agreements are attached to the Declaration of Tony M. Pearce. EdiZONE, LC and the inventor have substantial experience in the field of cushioning over the past 11 years and consider this invention to be a substantial commercial success. Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection.

Typographical Error

Claim 1 was further amended to correct a typographical error. The word "sufficient" was amended to recite "sufficiently."

Conclusion

In view of the foregoing, and in summary, Applicant believes that all issues and points of the Examiner's Office Action have been addressed in a sincere effort to advance prosecution of this Application. Applicant respectfully requests reconsideration and allowance of the pending claims.

Please debit Deposit Account No. 50-0581 for any additional fees.

Dated this 2nd day of October, 2003.

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Tony M. Pearce

Title: Contourable Inflatable Orthopedic Pillow

Filed: April 25, 2001

Serial No.: 09/843,413

Docket: 03886.032/5066 P

Examiner: Ho, Thomas Y.

Group Art Unit: 3677

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Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Certificate of Mailing

Honorable Commissioner:

I hereby certify that the attached Response to Final Office Action is being submitted via First Class Mail with the United States Postal Service in an envelope with sufficient postage on October 2, 2003, the envelope being addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313,1450.

Respectfully submitted this 2nd day of October, 2003.


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